

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARRICK SMITH, on behalf of himself  
and all other persons similarly  
situated known or unknown,

Plaintiffs,

v.

Case No. 12-CV-11462  
HON. GEORGE CARAM STEEH

HAPPY'S PIZZA FRANCHISE, LLC, et al.,

Defendants.

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ORDER DENYING MOTION FOR SUMMARY JUDGMENT (#9)  
AND RULE 56(D) MOTION (#11) AS MOOT

On June 15, 2012, defendants Happy's Pizza Franchise, LLC and Happy Asker filed a motion for summary judgment. On July 5, 2012, plaintiffs filed a Rule 56(d) motion, asking that the court deny defendants' motion for summary judgment without prejudice and grant plaintiffs leave to conduct discovery allegedly required to respond to defendants' motion. On August 20, 2012, the court entered an order allowing plaintiffs to file a fourth amended complaint, per the parties' agreement. On August 21, 2012, plaintiffs filed the fourth amended complaint. In light of the new complaint on file in this case, the court DENIES defendants' motion for summary judgment without prejudice as MOOT and accordingly denies plaintiffs' Rule 56(d) motion on the same basis.

SO ORDERED.

Dated: August 23, 2012

s/George Caram Steeh  
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GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 23, 2012, by electronic and/or ordinary mail.

s/Marcia Beauchemin  
Deputy Clerk